

REMARKS/ARGUMENTS

A. Status of the Claims

Claims 1-25 were originally filed. Claims 1-25 were subject to a Restriction Requirement. Claim 25 was elected for prosecution on the merits. Therefore, claims 1-24 have been withdrawn. Claim 25 is rejected. Applicants have added new claims 26-29.

First, Applicants have amended claim to recite that the composition has a concentration between 10 and 200 ppm. Support for this amendment can be found, for example, in paragraph [0038] and Tables I-IV of the published application.

Second, Applicants have amended to recite that the allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof. Support for this amendment can be found, for example, in paragraphs [0004]-[0008] of the patent publication.

Third, Applicants have amended that the allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose and red eyes. Support for this amendment can be found, for example, in paragraphs [0004]-[0008] of the patent publication.

New claims 26-29 are specific embodiments of claim 25. Claims 26-27 are specific embodiments of claim 25. Support for claims 28-29 may be found, for example, in paragraph [0145] of the specification.

No new matter is added and the amendments are fully supported by the specification.

B. 35 U.S.C. § 112, First paragraph (Written Description)

Claim 25 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action states that the claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time of the application was filed, had possession of the claimed invention. The Office Action states in relevant part, "In particular, while the patent application calls for the use of a composition comprising allergens treated with a hypohalous acid or salt thereof for testing an allergic response, the specification

does not identify the allergic response being tested, using the allergen treated with a hypohalous acid or salt thereof. Applicants respectfully traverse.

Applicants submit that the specification discloses both the allergens and the allergic response being tested. “Allergic responses include hay fever-type symptoms, such as sneezing, runny nose, red eyes, and skin rash (dermatitis).” See paragraph [0005] of the published application. “Dust mite allergens, pet urine, and pet dander are non-living and, in general, are simple proteins. Prior art examples were able to modify dust mite allergens and other similar proteins so that they no longer complex with specific antibodies used in an ELISA test.” See paragraph [0008] of the published application. See paragraphs [0004]-[0008] of the published application for a complete list of allergens and allergic responses encompassed by Applicant’s invention.

Additionally, for the sole purpose of expediting prosecution, Applicants have also amended claim 25 to clarify and recite that a) the allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof and b) the allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof. Support for this amendment is disclosed in paragraphs [0004]-[0008] of the patent publication. New claims 26-29 have been added which are specific embodiments of claim 25.

Therefore, Applicants respectfully request that this rejection be withdrawn.

C. 35 U.S.C. § 112, First paragraph (Enablement Description)

Claim 25 is rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants respectfully traverse.

For the sole purpose of expediting prosecution, Applicants have also amended claim 25 to clarify and recite that a) the allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof b) the allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof and c) the composition has a concentration of between 10 and 200 ppm. Support for this amendment is

disclosed, for example, in paragraphs [0004]-[0008], [0038] and Tables I-IV of the patent publication. New claims 26-29 have been added which are specific embodiments of claim 25.

Nature of the Invention

Claim 25 is directed to an in vivo test method for testing allergic response in animals, wherein said test method comprises the subcutaneous injection of allergens treated with a composition selected from a group consisting of a hypohalous acid, a hypohalous acid salt, and a combination thereof, wherein said composition has a concentration between 10 and 200 ppm; wherein said allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof; wherein said allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof.

State of the Prior Art

Claim 25 is directed to an in vivo test method for testing allergic response(s) in animals, wherein said test method comprises the subcutaneous injection of allergens treated with a composition selected from a group consisting of a hypohalous acid, a hypohalous acid/salt. As the Office Action states, this combination of the subcutaneous injection of allergens treated with a composition selected from a group consisting of a hypohalous acid, a hypohalous acid salt “is not known in the art.” Additionally, claim 25 has a specific range for the concentration of the hypohalous/acid solution that could be used for the presently claimed invention.

Level of One of Ordinary Skill in the Art

As currently pending, claim 25 has clarified a specific group of allergens and allergic responses. Consequently, the subcutaneous injection of allergens treated with a composition selected from a group consisting of a hypohalous acid, a hypohalous acid/salt to treat an allergic response is novel and non-obvious.

Amount of Direction and Guidance Provided by Inventor

As presently claimed, claim 25 does provide one of ordinary skill in the art directional guidance to as to which allergen response, allergens and concentration of hypohalous acids are being used. Applicants have also amended claim 25 to clarify and recite that a) the allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof b) the allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof and c) the composition has a concentration of between 10 and 200 ppm.

Breadth of Claims

As presently claimed, claim 25 does provide one of ordinary skill in the art directional guidance to as to which allergen response, allergens and concentration of hypohalous acids are being used. Claim 25 is directed to an in vivo test method for testing allergic response in animals, wherein said test method comprises the subcutaneous injection of allergens treated with a composition selected from a group consisting of a hypohalous acid, a hypohalous acid salt, and a combination thereof, wherein said composition has a concentration between 10 and 200 ppm; wherein said allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof; wherein said allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof.

Therefore, Applicants respectfully request that this rejection be withdrawn.

D. Under 35 U.S.C. § 112, second paragraph

Claim 25 is rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Office Action states that the claim as written is ambiguous because it is unclear what allergic response Applicant is testing for in the animals after having administered the composition comprising allergens and a hypohalous acid or hypohalous salt. Additionally, the Office Action further states that the claim as written is ambiguous because it is unclear what allergens Applicant is subcutaneously injecting into the animals. Furthermore, the

Office Action also states that the claim as written is ambiguous because it is unclear what hypohalous acid or salt thereof Applicant is referring to in the claim that is compatible with the instant invention. Applicants respectfully traverse.

For the sole purpose of expediting prosecution, Applicants have amended claim 25 to clarify and recite that a) the allergen is selected from the group consisting of pollen, mold, pet dander, dust mite, cockroach and mixtures thereof b) the allergic response is selected from the group consisting of skin rash, fever, sneezing, runny nose, red eyes and mixtures thereof and c) the composition has a concentration of between 10 and 200 ppm. Support for this amendment is disclosed in paragraphs [0004]-[0008], [0038] and Tables I-IV of the patent publication. New claims 26-29 have been added which are specific embodiments of claim 25. Applicants further submit that hypohalous acid and salt are fully disclosed in paragraphs [0036]-[0042] of the published application. Applicants further submit that one of ordinary skill in the art would understand the term “hypohalous acid and salt”.

Therefore, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. If, however, some issue remains which the Examiner feels may be addressed by Examiner’s amendment, the Examiner is cordially invited to call the undersigned for authorization.

In view of the foregoing amendments and remarks, Applicants request entry of the amendments and reconsideration of the rejections. If some issue remains which the Examiner feels may be addressed by Examiner’s amendment, the Examiner is cordially invited to call the undersigned for authorization.

In re Appln. of SHAHEEN et al.
Serial No.: 10/806,522

Please charge any additional fees, including fees for additional extensions of time, or credit overpayment to Deposit Account No. 03 2270.

Respectfully submitted,

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